

February 2, 1998

Town of Elkton
173 W. Spotswood Ave.
Elkton, Virginia

To Whom It May Concern:

I hereby tender my resignation as a member
of the Cemetery Commission of the Town of
Elkton, effectively immediately.

Sincerely,



Lillian R. Nicholson

418 West Spring Ave.
Elkton, VA 22827
February 3, 1998

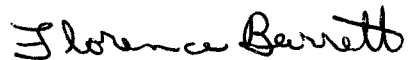
Mr. Bob Whitfield, Chair
Elkton Cemetery Commission
Town of Elkton
111 Morgan Avenue
Elkton, VA 22827

Dear Bob:

It is with regret that I hereby submit my resignation as a member of the Elkton Cemetery Commission. Personal obligations prevent me from continuing to serve.

I wish you and the other members the very best.

Sincerely,

A handwritten signature in cursive script that reads "Florence Barrett".

Florence Barrett

pc: The Honorable Charles E. Dean, Mayor

February 24, 1998

To: Nancy Sours

Subject: Perpetual Care Funds

Nancy,

According to the following:

Bylaws

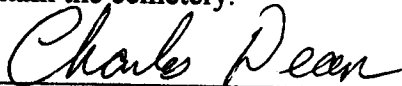
SECTION 13 - PRESERVATION OF SPECIAL FUNDS

The Town Manager shall ensure that all monetary funds designated for perpetual care of the cemetery are maintained in separate investment accounts or financial products and the principal thereof shall not be used for operational purposes. The Town Manager shall ensure that all monetary funds designated for real estate acquisition purposes are maintained in separate investment accounts or financial products and both interest, dividends and principal thereof shall be used for the purchase and development of real property for the cemetery and the expenses related thereto.

Deed

The Town will have the right to be compensated for labor and materials used by it in the maintenance and care of the cemetery on the basis of the fair market value of said labor and materials.

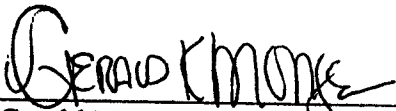
It is our understanding the interest and dividends from the perpetual care funds are to be used to maintain the cemetery.



Charles Dean, Mayor



Randell Snow, Finance Chairman



Gerald Monger, Town Manager

full-time or part-time employees and determine their compensation, benefits and duties.

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SECTION 14 - RULES CONCERNING CEMETERY

(A) For the purpose of preserving the beauty and symmetry of the grounds, and of protecting lot owners from the vagaries of bad taste, the Commission reserves the right to control the character of frames or other ornaments that may be constructed upon any lot; and when, in the opinion of the Commission, such structures are detrimental to the appearance or convenience of the grounds, the same may be removed at the cost of the Commission. No stone, marker, coping or any ornament of any sort may be placed on any lot unless set in concrete which projects at least four inches on all four sides of such coping or ornament. This bylaw will be strictly enforced and the Commission claims the right to change any such markers, copings and ornaments to conform to this rule at the expense of the lot owner if necessary.

(B) When workmen are engaged in erecting monuments, or doing any other building on the grounds, they must use great care in protecting the neighboring lots from injury, and upon finishing their work must, without delay, clean up all litter and dirt, and remove all machinery, lumber, and materials used by them, and when the workmen fail to comply with the above conditions, the Town Manager, under whose general supervision all such work is done, shall cause the grounds to be cleared of all dirt, etc. and recover the costs thereof from the owner of said lot or lots.

(C) When an owner of a lot shall so neglect to keep the same in order and it shall detract from the general good appearance of the cemetery, it shall be the duty of the Secretary to notify the owner of the condition of his lot, to request him, in the name of the Commission, to put it in good order. Should such request be not complied with, the Commission shall have the right to make such repairs and do such work as may be necessary to put the lot in good order, and charge the cost of same to the owner of said lot.

(D) The Commission may annually assess the owner of each lot with a sum applied to the general improvement of the grounds. The term lot, as used in this section, shall be construed to include all the lands lying contiguous and owned and used as a whole, even though it contains more than one lot as laid down on the plat of the grounds.

(E) When a lot has been purchased, and the purchaser has not paid for said lot, the Commission shall have the right to remove the remains of those who have been buried therein to some suitable place to be provided for this purpose, and after such removal the Commission shall have the right to resell said lot. After such removal the title to said lot shall revert to the Town of Elkton and it may be sold by them in a deed issued therefor as though the lot had never

herein, it is agreed by the Town of Elkton as follows:

- 1) It will manage the above described property as a community cemetery, the management of which shall be under the control of a commission appointed by the Town Council for that purpose.
- 2) That funds coming into its hands shall be managed for the purpose of perpetual care and accounted for in the Town's annual audit as a separate account.
- 3) The Town will have the right to be compensated for labor and materials used by it in the maintenance and care of the cemetery on the basis of the fair market value of said labor and materials.

IN WITNESS WHEREOF, Elk Run Cemetery Company, Inc. has caused its name to be signed by its president, and witness the following signatures and seals of the parties of the third part:

ELK RUN CEMETERY COMPANY, INC.

BY Hiram E. Monger
President

Garner H. Downey (SEAL)
Garner H. Downey

Mae Frances Downey (SEAL)
Mae Frances Downey

STATE OF VIRGINIA AT LARGE,
COUNTY OF ROCKINGHAM, to-wit:

The foregoing instrument was acknowledged before me by
Hiram E. Monger, President of Elk Run Cemetery Company, Inc.
for and on behalf of the corporation and by Garner H. Downey and
Mae Frances Downey, his wife.

My commission expires Feb. 8, 1985.

IA: In the Clerk's Office of the Circuit Court of Rockingham County.
going instrument was this day presented in the office aforesaid, and is,
with the certificate of acknowledgment annexed, admitted to record this
day of April, 1985 at 2:34 P M. I certify that
ere paid when applicable:

54 - State _____ County _____ City _____
54.1 - State _____ County _____ City _____ Transfer 1.00
10.00

TESTE
L. WAYNE HARPER
CLERK

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Charles H. Smith
Notary Public

HOOVER, PENROD, DAVENPORT & CRIST

ATTORNEYS AT LAW
342 SOUTH MAIN STREET
HARRISONBURG, VIRGINIA 22801

LAWRENCE H. HOOVER, JR.
DAVID A. PENROD
JOHN N. CRIST
DALE A. DAVENPORT
ROBERT F. KEEFER
RICHARD A. BAUGH
DILLINA W. STICKLEY

February 25, 1998

FACSIMILE
540-433-3916
TELEPHONE
540-433-2444

Bob Whitfield, Chairman
Elkton Cemetery Commission
111 Morgan Avenue
Elkton, VA 22827

Betty McGahey
Elkton Cemetery Commission
216 Stuart Avenue
Elkton, VA 22827

Mary W. Greene, Secretary
Elkton Cemetery Commission
1285 Shank Drive
Harrisonburg, VA 22801

Lillian R. Nicholson
Elkton Cemetery Commission
P. O. Box 166
Elkton, VA 22827

Florence Barrett
Elkton Cemetery Commission
607 4th Street
Elkton, VA 22827

Esther Nizer
Elkton Cemetery Commission
Route 3, Box 627
Elkton, VA 22827

G. W. Berry
Elkton Cemetery Commission
211 Morgan Avenue
Elkton, VA 22827

Dear Commission Members:

I want to respond to the legal issues raised at your Annual Meeting last week, as reflected in the minutes of your meeting.

Council Member Position - Since Council must appoint all members, amending the Bylaws to require a council member to be a member of the Cemetery Commission would appear unnecessary. If Council chooses for one of its members to serve on the Commission it can make such an appointment, as it has done in the past. If not, then it would not be appropriate for the Commission to have a Bylaw provision requiring the Council to do something it does not wish to do. There could come a time when for a variety of reasons a Council does not have one of its member willing or able to serve. It would be unwise to create a situation in which the Bylaw had to be either changed or ignored. Therefore, I suggest that the present Bylaw be retained.

HOOVER, PENROD, DAVENPORT & CRIST

February 25, 1998
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Time and Place of Annual Meeting - I suggest that Section 2 be amended to read as follows:

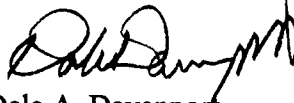
The annual meeting of the Commission shall be held during the month of February of each year, at a specific time and place as the officers designate by proper notice to the members.

Quorum Requirement - The provision setting a quorum of three members was adopted by the first Commission. I assume, but do not know, that it was adopted out of concern whether a majority quorum could be obtained consistently. I can find no requirement in state law or the Town Charter for any particular quorum requirement for commissions in general or cemetery commissions (there is a majority quorum requirement for planning commissions). The state law gives towns broad powers to establish commissions and absent a specific limitation as to quorums, it would seem legally valid for the Town to allow the Cemetery Commission to establish a quorum of three members. However, if the Commission wants to require a majority, it certainly can do so.

Call for Meeting Requirement - As with the quorum requirement, this appears to be a matter to be decided by the Commission. It need not be the same as the quorum.

Please let me know if you have further questions concerning these issues or if you have questions on other matters related to the Cemetery Commission.

Very truly yours,



Dale A. Davenport
Town Attorney

DAD/lrj

pc: Gerald Monger, Town Manager
Denise Jenkins, Cemetery Director
Charles Dean, Mayor